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Reissue Application of: Zaydman
Serial No.: 09/217,469
Patent No.: 5,599,471
Art Unit: 3742
Examiner: Tu Hoang.
Filing Date: December 21, 1998
For: Compact Smoking Oven
With A Rotatable Food Support
Attorney Docket No.: 8001.005

Reissue Patent
Application

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Assistant Commissioner for Patents
Washington, D.C. 20231

Response to the Office Communication

The attached substitute specification is being submitted in response to the Office Communication not dated (a copy is attached hereto).

In response to the Examiner's request, Applicant is attaching another copy of the substitute specification of the present reissue application. It is respectfully submitted to the Examiner that, in accordance with 37 CFR §1.173, the specification of the reissue application is presented as a cut-out copy of the original patent, with only a single column of the printed patent mounted on a separate sheet of paper. Please note that all amendments to the substitute specification submitted herein were prepared in accordance with 37 CFR §1.121 and presented

for your review in the Applicant's Response to the Office Communication dated November 13, 2000.

The Examiner also indicated that the above Response to the Office Communication of November 13, 2000 (hereinafter "November Response") does not fully respond to all issues raised in the Office Action dated February 4, 2000 (hereinafter "February Action"). Applicant generally notes that, since amendments to the specification and claims presented in the originally filed reissue application have been cancelled, most of the issues raised by the Examiner are deemed mute. However, Applicant appreciates that, due to the extensive nature of the February Action, it may be difficult for the Examiner to separate the issues that are mute from the issues which require an answer. Therefore, Applicant will reply to all of these issues paragraph by paragraph.

Litigation Information

There is no prior or concurrent litigation or any other legal proceedings involving present reissue application or the underlying patent.

Surrender of the Original Patent

As the Examiner noted in the February Action, the original patent has already been surrendered.

Amendment of the Reissue Application

The amendment to both the specification and claims of the original patent filed on December 21, 1998 has been cancelled. Therefore, the Examiner's objection to the form and content of that amendment is mute. Applicant has submitted a new amendment, fully compliant with the requirements of 37 CFR §1.121(b), in his November Response. Further, by cancelling

the entire amendment, Applicant has complied with the Examiner's request to cancel any new matter that might have been submitted with the original amendment.

Drawings

In response to the Examiner's objection, Applicant has cancelled all amendments to the drawings of the originally issued patent. Therefore, all issues raised with respect to those amendments are deemed mute. Applicant is respectfully submitting a request (attached hereto) to transfer the original patent drawings to the present reissue application.

Specification

All amendments to the abstract of the disclosure have been cancelled, therefore, the Examiner's objections to those amendments are deemed mute. All original amendments to the specification of the present reissue application have been cancelled. The duplicate substitute specification submitted herein includes the entire specification and claims of the issued patent. Amendments to this substitute specification have been submitted in the Applicant's November Response. No new matter has been introduced. It is believed that these amendments are fully in compliance with the requirements of 37 CFR §1.121(b). The Examiner's objections with respect to the cancelled amendments are deemed mute.

New Matter

All amendments, which raised the Examiner's objection under 35 U.S.C. §251, were cancelled by the Applicant. No new matter has been added to the amendments submitted in the November Response.

Title

The amendment to the title of the invention as submitted in the original amendment has

been cancelled. The new title COMPACT SMOKING OVEN WITH A ROTATABLE FOOD SUPPORT is believed to be fully descriptive of the Applicant's invention.

Claim Rejections - 35 U.S.C. §251

All claim amendments which raised the Examiner's rejection under 35 U.S.C. §251 have been cancelled by the Applicant in his Amendment and Response to the February Office Action. No new matter has been added to the amended claims 1, 5, and 9-14 and newly submitted claims 26- 34, as more fully explained in the Applicant's November Response. Therefore, the claims as they presently stand are believed to be in compliance with the requirements of 35 U.S.C. §251.

Claim Rejections - 35 U.S.C. §112

All claim amendments which raised the Examiner's rejection under 35 U.S.C. §112 have been cancelled by the Applicant in his Amendment and Response to the February Office Action. The amended claims 1, 5, and 9-14 and newly submitted claims 26- 34 are believed to be in compliance with the requirements of 35 U.S.C. §112.

Claim Rejections - 35 U.S.C. §102

In the February Office Action the Examiner rejected claims 1-7, 9, 12, 16, 19-21, and 25 as being anticipated by Koopman (U.S. Patent No. 5,361,686). Applicant again directs the Examiner's attention to the two previous responses which cancelled claims 15-25 and cancelled all original amendments to claims 1-7,9, and 12. Claims 1, 5, 9 and 12, as amended in the November Response, are believed to be patentable over the Koopman reference. Claims 1, 5, 9 and 12, as they currently stand, all recite the limitations of having "a container for accommodating wooden chips" and "means for heating said container so that when said container is heated, wooden chips inside said container are heated to produce a smoke." These

limitations are not disclosed in the Koopman reference. Claims 2-4, and 6-7 are also patentable over Koopman because they depend from claims 1 and 5 respectively and, therefore, contain the same limitations.

Moreover, newly presented claims 26 - 34 are also patentable over the Koopman reference. Koopman does not disclose a rotatable food support for use in a compact smoking oven, which has a first rotatable disc, a second rotatable disc, and a plurality of rods, which are rotatably mounted on these rotatable discs and spaced apart in a circumferential direction, where each of said plurality of rods has its own axis and the discs and rods are configured so as to allow each rod to rotate around its own axis while the discs are rotated around their axes. Additionally, Koopman does not disclose a rotatable food support which can be removed from the compact smoking oven without disassembly for loading and unloading of the food product, as required by new claims 29 -32 and 34. New claim 33 is likewise patentable over the Koopman reference because Koopman does not teach "at least one grate for supporting a food product to be smoked in said compact smoking oven, said grate being rotatably mounted on at least one rod located within said compact oven," as required by claim 33.

Claims 1-4, 9, 12, 14-16, 19, 24-25 have been rejected by the Examiner as being anticipated by Jacobs (U.S. Patent No. 4,924,071). As the Examiner indicated in the Office Action, Jacobs was cited in the parent patent application. Therefore, by cancelling all original amendments to the claims Applicant believes that the remaining claims are patentable over the Jacobs reference. Moreover, newly submitted claims 26-34 are likewise patentable over Jacobs because Jacobs does not teach the rotatable food support having two rotatable discs as required by these new claims.

Claim 23, rejected by the Examiner as anticipated by Schmid et al (U.S. Patent No. 5,562,022) has been cancelled by the Applicant.

Claim Rejections - 35 U.S.C. §103

Claims 8 and 10 have been rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Koopman in view of Schmid et al. As explained above, neither Koopman nor Schmid teaches the elements of having “a container for accommodating wooden chips” and “means for heating said container so that when said container is heated, wooden chips inside said container are heated to produce a smoke.” Therefore, claims 8 and 10, both containing the above limitations, are patentable over the cited prior art.

Claim 11 has been rejected by the Examiner based on the Jacobs reference. As the Examiner observed, the original claim 11 of the issued patent has been allowed over the Jacobs reference, all new amendments to this claim have been cancelled (except for elimination of the “box-shaped” limitation which was not required to overcome the cited prior art). Therefore, claim 11 is believed to be in a formal condition for allowance.

Communications With the Applicant

The Examiner is reminded that a Power of Attorney designating a contact person has been submitted to the Patent and Trademark Office. Please, direct all future correspondence to:

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In view of the above remarks, it is submitted that all of the claims remaining in the

application, specifically claims 1 -14, and 26 - 34, are currently in patentable form. A prompt and favorable allowance of all of the claims is requested and believed fully warranted. Should the Examiner have any questions concerning the present Amendment, a telephone call to counsel would be welcomed.

Dated: January 17, 2001

Respectfully submitted,

Anna Vishev

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